

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of 2016 Iowa Code section 421.14, the Department of Revenue hereby amends Chapter 89, “Fiduciary Income Tax,” Iowa Administrative Code.

The subject matter of paragraph 89.8(8)“g” is the “no double deduction” rule as it applies to deductions from fiduciary income tax. Paragraph 89.8(8)“g” clarifies how the federal “no double deduction” rule applies to Iowa fiduciary income tax. The federal “no double deduction” rule under IRC Section 642(g) states that certain deductions for administration expenses and debts of the decedent taken on the federal estate tax return may not be deducted on the federal fiduciary income tax return. The basis for Iowa fiduciary taxable income is federal fiduciary taxable income with adjustments provided in the Iowa Code. Only deductions allowed on the federal fiduciary income tax return are allowed on the Iowa fiduciary income tax return unless there is a specific provision in the Iowa Code stating otherwise.

2015 Iowa Acts, chapter 125, section 1, (“the Act”) created a specific deduction from Iowa fiduciary income tax for administrative expenses not allowed on the federal fiduciary income tax return. The Act applies to all Iowa fiduciary income tax returns filed for tax years ending on or after July 1, 2015. This amendment updates the paragraph on the “no double deduction” rule to correspond with the change made by the Act.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2537C** on May 11, 2016. No public comments were received. The Department revised numbered paragraphs 89.8(8)“g”“1” and “2” from the amendment published under Notice in order to limit the expanded deduction to only administrative expenses, as the law requires.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code subsection 422.7(58).

This amendment will become effective September 7, 2016.

The following amendment is adopted.

Amend paragraph **89.8(8)“g”** as follows:

g. The no double deduction rule. Expenses of administration, certain debts of the decedent like medical expenses incurred prior to death and losses during the period of administration are proper deductions in computing both the taxable income of an estate or trust (or on the decedent’s individual return in case of medical expenses) and the taxable estate for federal estate tax purposes under 26 U.S.C. Sections 2053 and 2054. The no double deduction rule only applies to trusts when the trust assets are included for federal estate tax purposes. 26 U.S.C. Section 642(g) prohibits the double deduction of those items which qualify as deductions for both taxes. To prevent the double deduction, it is a prerequisite for the allowance of the deduction for income tax purposes that a statement be filed with the fiduciary return of income waiving the right to claim the item or portion of the item as a deduction on the federal estate tax return. The waiver once filed with the fiduciary return of income is irrevocable. However, unless the waiver has been filed, the decision to claim the deduction or portion of the deduction on the federal estate tax return can be changed anytime prior to the time the item or portion of the item is finally allowed for federal estate tax purposes.

The waiver requirement has no application to estates and trusts not required to file a federal estate tax return.

The no double deduction rule has no application to deductions in respect of a decedent, such as deductions relating to trade or business expenses, interest, taxes, expenses for the production of income and the allowance for depletion, which are deductible both for income tax purposes and federal estate tax purposes. See 26 U.S.C. Section 691(b) and ~~federal regulations~~ 26 CFR Section 1.691(b)-1 for what constitutes deductions in respect of a decedent.

The no double deduction rule does not apply to the deduction of an item for Iowa inheritance tax purposes. Items are deductible or not in computing the taxable shares for Iowa inheritance tax purposes by reference alone to Iowa Code chapter 450.

Assuming an item is otherwise deductible for income and inheritance tax purposes, the no double deduction rule has the following applications for Iowa income and inheritance tax:

1. ~~For estates~~ Estates and trusts not required to file a federal estate tax return, ~~an item is deductible for~~ can claim the item as a deduction on both the Iowa inheritance tax return and the Iowa fiduciary income tax purposes return.

2. Estates and trusts required to file a federal estate tax return can ~~always~~ claim the item as a deduction on the Iowa inheritance tax return. In addition, the same item or portion of the item is a deduction ~~for on the Iowa fiduciary income tax purposes return~~ if the item or portion of the item is not claimed as a deduction on the federal estate tax return. If it is claimed as a deduction on the federal estate tax return, it is not deductible ~~for on the Iowa fiduciary income tax purposes return.~~

3. For tax years ending on or after July 1, 2015, estates or trusts required to file a federal estate tax return can claim administrative expenses as a deduction on the Iowa fiduciary income tax return, regardless of whether the item or a portion of the item was claimed on the federal estate tax return.

~~This rule~~ paragraph applies both to estates and trusts with a situs within and without Iowa.

[Filed 7/15/16, effective 9/7/16]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/16.